

University of California, Hastings College of the Law UC Hastings Scholarship Repository

Initiatives

California Ballot Propositions and Initiatives

5-7-2012

REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES. INITIATIVE CONSTITUTIONAL AND STATUTORY AMENDMENT

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_inits

Recommended Citation

REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES. INITIATIVE CONSTITUTIONAL AND STATUTORY
AMENDMENT California Initiative 1582 (2012).
http://repository.uchastings.edu/ca_ballot_inits/1790

This Initiative is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Initiatives by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

October 19, 2012

County Clerk/Registrar of Voters (CC/ROV) Memorandum #12304

TO: All County Clerks/Registrars of Voters and Proponent

FROM:


Katherine Montgomery
Initiative Program Manager

RE: Initiative: Failure of #1582, Related to Public Employee Pensions

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures for the hereinafter named initiative constitutional amendment and statute filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: REDUCES PENSION BENEFITS FOR PUBLIC
EMPLOYEES. INITIATIVE CONSTITUTIONAL AND
STATUTORY AMENDMENT.

SUMMARY DATE: May 7, 2012

PROPONENT: Thomas W. Hiltachk



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

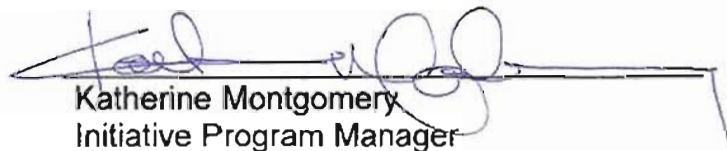
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

May 8, 2012

County Clerk/Registrar of Voters (CC/ROV) Memorandum #12148

TO: All County Clerks/Registrars of Voters and Proponent

FROM:


Katherine Montgomery
Initiative Program Manager

RE: Initiative: 1582, Related to Public Employee Pensions

Pursuant to Elections Code section 9004 (c), we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES.
INITIATIVE CONSTITUTIONAL AND STATUTORY AMENDMENT.

The proponent of the above-named measure is:

Thomas W. Hiltachk

(916) 442-7757

#1582

**REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES.
INITIATIVE CONSTITUTIONAL AND STATUTORY AMENDMENT.**

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 807,615
California Constitution, Article II, Section 8(b)
2. Official Summary Date: Monday, 05/07/12
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elections Code § 336) Monday, 05/07/12
 - b. Last day Proponent can circulate and file with the county.
All sections are to be filed at the same time within each
county. (Elections Code §§ 9014, 9030(a)).....Thursday, 10/04/12
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (Elections Code § 9030(b)).....Wednesday, 10/17/12

(If the Proponent files the petition with the county on a date prior to
10/04/12, the county has eight working days from the filing of the petition
to determine the total number of signatures affixed to the petition and to
transmit the total to the Secretary of State) (Elections Code § 9030(b).)
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures
and notifies the counties.....Friday, 10/26/12*
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(Elections Code § 9030(d) & (e)).....Wednesday, 12/12/12

* Date varies based on the date of county receipt.

INITIATIVE #1582
Circulating and Filing Schedule continued

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 10/26/12, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elections Code § 9030(d) & (e).)

- f. If the signature count is more than 888,377 or less than 767,235 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 767,235 and 888,377 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (Elections Code § 9030(f) & (g); 9031(a))..... Saturday, 12/22/12*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elections Code § 9031(b) & (c))..... Wednesday, 02/06/13

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 12/22/12, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elections Code § 9031(b) & (c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elections Code §§ 9031(d), 9033). ... Sunday, 02/10/13*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code § 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code §§ 100, 101, 104, 9008, 9009, 9013, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.



KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 445-4752
Facsimile: (916) 324-8835
E-Mail: Ashley.Johansson@doj.ca.gov

May 7, 2012

The Honorable Debra Bowen
Secretary of State
Office of the Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery
Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code section 9004, you are hereby notified that on this day we sent our title and summary for the following proposed initiative to the proponent:

- 12-0008, "Government Employee Pension Reform Act"

A copy of that title and summary and text of the proposed initiative is enclosed. Please contact me if you have questions. Thank you.

Sincerely,

ASHLEY JOHANSSON
Initiative Coordinator

For KAMALA D. HARRIS
Attorney General

cc: Thomas W. Hiltachk, Bell, McAndrews & Hiltachk, LLP

FILED
In the office of the Secretary of State
of the State of California

8:15pm

MAY 07 2012

VIA
EMAIL

Debra Bowen, Secretary of State

By Deputy Secretary of State

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES. INITIATIVE

CONSTITUTIONAL AND STATUTORY AMENDMENT. Requires all current and future public employees pay annually at least half projected costs of their pension plan's defined benefit. Requires hybrid pension plans for new employees, composed of defined benefits, defined contribution, and Social Security. Requires hybrid plans be designed to pay 75% of final salary after full career, capped at federal Social Security base. Increases minimum retirement age for future law enforcement and firefighters to 52, for others 57. Requires 15 years service for new state employees to receive any retirement health benefits, and reduces employer contribution. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Over the next few decades, reduced state and local government personnel costs, offset by some potential additional expenses. The net effect would vary from one public employer to another based on how this measure is interpreted and administered, among other factors. In the long run (a few decades from now), depending on how this measure is administered, potential annual savings in state and local government personnel costs of a few billion dollars per year (in current dollars), offset to some extent by increases in other employee compensation costs. (12-0008.)**

March 14, 2012

Ashley Johansson, Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

RECEIVED

MAR 14 2012

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure ("Government Employee Pension Reform Act") to your office and request that you prepare a circulating title and summary of the measure as provided by law. I have also included with this letter the required signed statement pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200. My address as registered to vote is shown on Attachment 'A' to this letter.

Thank you for your time and attention to this important matter. Should you have any questions or require additional information, please contact the undersigned at (916) 442-7757.

Very Truly Yours,



Thomas W. Hiltachk,
Proponent

First—That Section 12 is added to Article VII thereof, to read:

SEC. 12. (a) Each public retirement system shall provide one or more hybrid pension plans that meet the requirements of this section to each public employer that provides its employees a defined benefit pension plan administered by the public retirement system.

(1) To reduce employer risk and cost, a hybrid pension plan shall consist of a defined benefit component, a defined contribution component or alternative plan component, and, if applicable, benefits under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.). The hybrid pension plan shall be designed with the goal of providing, annually during retirement, replacement income of 75 percent of a public employee's final compensation, based on a full career in public service. The hybrid pension plan shall also be designed to limit the combination of the defined benefit and the defined contribution benefit at the amount of either (A) the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code, or its successor, for those eligible for social security benefits or (B) 120 percent of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code, or its successor, for those not eligible for social security benefits. As used in this paragraph, "full career in public service"



120610255878CA

means 30 years of credited service and a normal retirement age of 57 for public employees in safety member classifications and 35 years of credited service and a normal retirement age of 67 for all other public employees.

(2) On or before January 1, 2013, the Director of Finance shall establish initial criteria and requirements for one or more hybrid pension plans to be provided by a public retirement system for each of the system's member classifications as specified in this section and Section 7514.70 of the Government Code. Chapter 3.5 (commencing with Sec. 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the activities undertaken by the Director of Finance pursuant to this section.

(3) On and after July 1, 2013, each public retirement system shall administer, and make available to each public employer that provides a defined benefit pension plan, one or more hybrid pension plans for public employees hired in each member classification in the public retirement system. Each hybrid pension plan shall be consistent with the goals, criteria, and requirements of this section and the criteria and requirements established by the Director of Finance. A public employer shall offer to its public employees first hired on and after July 1, 2013, only a hybrid pension plan made available by the public retirement system pursuant to this section, unless the public employer has an alternative pension plan that is determined and certified by the system's chief actuary and by the system's board to have less risk and lower costs to the employer than any available hybrid plans provided by this section.



12061073587904

(4) An action to obtain a judgment or writ restraining and preventing the implementation or continued implementation of the alternative plan pursuant to paragraph (3) may be maintained against the retirement system actuary, the board of the retirement system, the retirement system, and the employer challenging any of the following: (A) the determination that the alternative plan is less risky and less costly to the employer; (B) the authorization to offer the alternative plan; or (C) the actual offer of the alternative plan to employees. An action may be brought by any resident or corporation that is assessed and is liable to pay, or within one year before the commencement of the action, has paid, a tax within the jurisdiction or geographical boundaries of the public employer. The right to maintain an action described in this paragraph is in addition to, and does not limit, any other right of action otherwise provided in law.

(5) On and after July 1, 2013, to the extent possible while preserving the beneficial federal tax treatment of contributions, the hybrid pension plan or plans described in paragraph (3) shall be made available to public employees who are members of, or eligible for membership in, the employer's defined benefit pension plan, as applicable to each member classification in the system prior to July 1, 2013.

(b) This subdivision applies to all public employees first hired by a public employer on or after January 1, 2013, who are, or are eligible to be, members of a public retirement system.

(1) For a defined benefit for retirement that is calculated by multiplying the member's years of service by a percentage of the member's final compensation



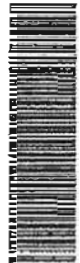
120602517780

based on age at retirement, final compensation shall be calculated by using the member's highest average payrate during at least a consecutive 36-month period of service. Final compensation shall not include bonuses, unplanned overtime, or payments for unused sick leave or vacation.

(2) To be eligible to apply for service retirement, a member shall first be credited with five years of service and attain either 52 years of age for safety member classifications or 57 years of age for all other public employees. If the minimum age requirements are increased under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.), the age requirements of this section shall increase by an equal number of years for any new employee hired after the operative date of the change in federal law.

(c) This subdivision applies to all public employers and to all public employees who are members of a public retirement system, regardless of the date the public employee is first hired by a public employer, to the fullest extent permissible under the United States Constitution. This subdivision shall not be construed to enlarge the application of any paragraph of this subdivision, or a statute referenced in a paragraph of this subdivision, that is limited to particular types or classes of employees or members.

(1) Any change to a formula or benefit that results in an increase in a member's pension benefits shall apply only to service performed on and after the operative date of the change, and shall not be applied to any service performed prior to the operative date of the change, except as otherwise provided in Section 7503.71 of the Government Code.



1206102558778CA

(2) Each public employer and each public employee who is a member of a public retirement system shall make required payments to fund the normal cost of the employee's defined benefit plan or component, if any, of the employee's pension plan.

(3) Public employees shall contribute at least one-half of the annual actuarially determined normal costs of any defined benefit plan or component. The public employer shall not pay on behalf of a member of a public retirement system any of the member's required employee contributions.

(4) A public retirement system shall not grant to a member nonqualified service credit, regardless of the manner in which that service credit may be denominated, except as provided in Section 22826 of the Education Code and Sections 7503.74, 20899.5, 20909, 31486.35, and 31658 of the Government Code.

(5) If a public employee is convicted of any felony under state or federal law for conduct arising out of, or in the performance of, his or her official duties, his or her pursuit of an office or employment, or in connection with obtaining salary, disability retirement, retirement, or other benefits, he or she shall forfeit retirement benefits in accordance with Section 1243, 1244, or 1245 of the Government Code, as may be applicable.

(6) Any service performed by a public employee who has retired from a public retirement system may be performed only to the extent authorized in Section 7503.76 of the Government Code. Service that is authorized shall not exceed a total of 960 hours or 120 full-time days in a consecutive 12-month period for all public employers in that public retirement system. A retired employee who serves



170610255878CA

on a public board or commission shall not earn any retirement benefits for that service unless he or she reinstates from retirement.

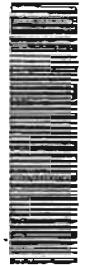
(d) The definition of terms contained in Section 7514.60 of the Government Code govern the construction of those terms used in this section.

(e) Except as expressly provided in this section or any of the statutory provisions referenced in this section, neither this section nor any of those statutory provisions apply to, or otherwise restrict, any disability, death, or survivor benefits provided by a public employer.

(f) If the terms of a contract, including a memorandum of understanding, between a public employer and its public employees, that is in effect on November 7, 2012, would be impaired by any provision of this section or by any statutory provision referenced in this section, that provision shall not apply to the public employer and public employees subject to that contract until the expiration of that contract. A renewal, amendment, or any other extension of that contract shall be subject to the requirements of this section and the statutory provisions referenced in this section.

(g) (1) The Legislature may amend a code section referenced in this section, by statute passed by a two-thirds vote of the membership of each house of the Legislature, only if the statute is consistent with, and furthers the purpose of, this section.

(2) Any reference in this section to any code section refers to that code section as it read on January 1, 2013, or as amended pursuant to paragraph (1).



120610255176CA

(h) Notwithstanding any other provision of this Constitution, neither the activities, programs, or levels of service required by the criteria or requirements established by the Director of Finance pursuant to subdivision (a), nor the goals, criteria, requirements, or definitions provided in the statutes referenced in this section or statutes enacted pursuant to subdivision (g), shall constitute a mandate requiring the State to provide a subvention of funds.

Second—That subdivision (f) of Section 17 of Article XVI thereof is amended to read:

(f) ~~With (1) Except as provided in paragraph (2), with regard to the retirement board of a public pension or retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.~~

(2) The composition of the retirement board of a public pension or retirement system shall be modified in the manner provided for in Section 20090 of the Government Code, as that section read on January 1, 2013, and that modification is not subject to ratification by the electors as described in paragraph (1).

Third—That, notwithstanding any other provision of law, including this Constitution, the state shall defend the constitutionality of this act.



SECTION 1. Section 22826 of the Education Code is amended to read:

22826. (a) A member, other than a retired member, may request to purchase up to five years of nonqualified service credit provided the member is vested in the Defined Benefit Program as provided in Section 22156.

(b) A member who requests to purchase nonqualified service credit as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the plan with respect to the Defined Benefit Program in effect on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801.

(c) Notwithstanding any other law, any request to purchase nonqualified service credit pursuant to this section shall be made before, and any approval of a purchase shall be made only for the requests received before, the operative date of the act adding this subdivision.

SEC. 2. Section 1243 of the Government Code is amended to read:

1243. (a) This section shall apply to any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, and prior to the operative date of the act adding Sections 1244 and 1245.

(b) If an elected public officer is convicted during or after holding office of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as an elected public officer, he or she shall forfeit all rights and benefits under, and membership in, any



12063574615311

public retirement system in which he or she is a member, effective on the date of final conviction.

(c) The elected public officer described in subdivision (b) shall forfeit only that portion of his or her rights and benefits that accrued on or after January 1, 2006, on account of his or her service in the elected public office held when the felony occurred.

(d) Any contributions made by the elected public officer described in subdivision (b) to the public retirement system that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned, without interest, to the public officer within 90 days after a nonappealable decision is final.

(e) The public agency that employs an elected public officer described in subdivision (b) shall notify the public retirement system in which the officer is a member of the officer's conviction.

(f) An elected public officer shall not forfeit his or her rights and benefits pursuant to subdivision (b) if the governing body of the elected public officer's employer, including, but not limited to, the governing body of a city, county, or city and county, authorizes the public officer to receive those rights and benefits.

(g) For purposes of this section, "public officer" means an officer of the state, or an officer of a county, city, city and county, district, or authority, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(h) This section applies to any person appointed to service for the period of an elected public officer's unexpired term of office.

SEC. 3. Section 1244 is added to the Government Code, to read:



1206076010001

1244. (a) This section shall apply to a public employee first hired by a public employer or first elected or appointed to an office on or after the operative date of this section and, on and after that date, Section 1243 shall not apply.

(b) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c) (1) A public employee shall forfeit all the retirement benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The retirement benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the public employee's conviction. Retirement benefits attributable to service performed prior to the date of the first commission of the felony for which the public employee was convicted shall not be forfeited as a result of this section.

(2) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d) (1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the



120518342913001

public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e) The public employer that employs a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 60 days of conviction in the trial court. The public employer's notification obligations shall not apply if the public employee's conviction occurs after the public employee separates from employment or office with that public employer. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) A public retirement system may assess a public employer a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

(g) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to recover the forfeited retirement benefits as adjusted for the contributions received pursuant to subdivision (d).

(h) The definitions in Section 7514.60 shall apply to this section.

SEC. 4. Section 1245 is added to the Government Code, to read:



120615748150111

1245. (a) This section shall apply to a public employee first hired by a public employer or first elected or appointed to an office before the operative date of this section and, on and after that date, Section 1243 shall not apply.

(b) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member, to the extent provided in subdivision (c), and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c) (1) A public employee shall forfeit the retirement benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The retirement benefits shall remain forfeited, notwithstanding any reduction in sentence or expungement of the conviction following the date of the public employee's conviction. Retirement benefits attributable to service performed prior to the first date of the commission of the felony for which the public employee was convicted shall not be forfeited as a result of this section.

(2) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d) (1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the



12061574118211

public employee upon the occurrence of a distribution event, unless otherwise ordered by a court or determined by the pension administrator.

(2) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

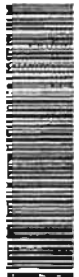
(e) The public employer that employs a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of the public employee's conviction within 60 days of the conviction. The public employer's notification obligations shall not apply if the public employee's conviction occurs after the public employee separates from employment or office with that public employer. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) A public retirement system may assess a public agency a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public agency failed to comply with this section.

(g) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to recover the forfeited retirement benefits as adjusted for the contributions received pursuant to subdivision (d).

(h) The definitions in Section 7514.60 apply to this section.

SEC. 5. Section 7503.71 is added to the Government Code, to read:



1206176415012

7503.71. The following shall apply to all public employers, to public employees hired on or after the operative date of this section, and to all public employees hired by a public employer before the operative date of this section to the fullest extent permissible under the California Constitution and the United States Constitution:

(a) Notwithstanding any other law, any enhancement to a public employee's retirement formula or retirement benefit adopted on or after the operative date of this section shall apply only to service performed on or after the operative date of the enhancement and shall not be applied to any service performed prior to the operative date of the enhancement.

(b) Notwithstanding any other law, if a change to a member's classification or a change in employment results in an enhancement in the retirement formula or retirement benefit applicable to that member, that enhancement shall apply only to service performed on or after the operative date of the change and shall not be applied to any service performed prior to the operative date of the change.

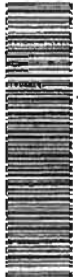
(c) The definitions in Section 7514.60 apply to this section.

SEC. 6. Section 7503.72 is added to the Government Code, to read:

7503.72. The following shall apply to all public employers and public employees:

(a) In any fiscal year, a public employer's contribution to a defined benefit plan or component of a retirement plan, in combination with employee contributions to that defined benefit plan or component of that plan, shall be not less than the normal cost for that defined benefit plan or component of that plan for that fiscal year.

(b) The definitions in Section 7514.60 shall apply to this section.



7503.72(1)(a)

SEC. 7. Section 7503.73 is added to the Government Code, to read:

7503.73. This section shall apply to all public employers, to public employees hired on or after the operative date of this section, and to all public employees hired by a public employer prior to the operative date of this section to the fullest extent permissible under the California Constitution and the United States Constitution.

(a) Public employees who contribute to a defined benefit plan or component shall contribute at least one-half of the annual actuarially determined normal costs for such defined benefit plan or component, subject to the limitations in subdivision (b). A public employer shall not pay, on behalf of a member of a public retirement system, any of the member's share of required employee contributions.

(b) If an employee's pension contribution is below 50 percent of the normal cost of the defined benefit plan or component on the operative date of this section, the increase to the employee's contribution shall be phased in to at least 50 percent over a period not to exceed three years. The terms of the phase-in shall be determined through collective bargaining or, for those employees not subject to collective bargaining, by the employer.

(c) If the normal cost of an employee's defined pension benefit plan or component declines, the amount of the employee's contribution may be reduced to not less than 50 percent of the normal cost of that benefit through collective bargaining or, for those employees not subject to collective bargaining, by the employer.

(d) Employee contributions described in this section shall be considered employer contributions for the purposes of federal tax law.

(e) The definitions in Section 7514.60 apply to this section.



SEC. 8. Section 7503.74 is added to the Government Code, to read:

7503.74. (a) On and after the operative date of this section, a public retirement system shall not allow the purchase of nonqualified, additional retirement service credit, however that service credit may be denominated.

(b) The prohibition of this section does not apply to an official application to purchase additional retirement service credit that was received by the public retirement system prior to the operative date of this section.

(c) For the purposes of this section, "additional retirement service credit" means service credit for time that does not otherwise qualify as public service, military service, leave of absence, or other time recognized for service by a public retirement system.

(d) The definitions in Section 7514.60 apply to this section.

SEC. 9. Section 7503.76 is added to the Government Code, to read:

7503.76. (a) Notwithstanding any other law, a person who retires from a public employer on or after the operative date of this section shall not serve, be employed by, or be hired through a contract either directly or through a third party by, a public employer without reinstatement from retirement, except as permitted by this section.

(b) A person who retires from a public employer on or after the operative date of this section may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed to perform work of limited duration.



120616764815874

(c) Appointments authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or 120 full-time days or other equivalent limit, in a consecutive 12-month period. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties. A retired person whose employment without reinstatement is authorized by this section, including, but not limited to, service on a public board or commission, shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

(d) (1) Subdivision (b) does not apply to any retired person otherwise eligible to serve or be employed by a public employer, if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(e) The definitions in Section 7514.60 apply to this section.

SEC. 10. Section 7514.60 is added to the Government Code, to read:

7514.60. As used in Section 12 of Article VII of the California Constitution and the statutory references contained therein, the following terms have the following meanings:



12061564819816

(a) "Employee contributions" means the contributions to a public retirement system required to be paid by a member of the system, as fixed by law, regulation, administrative action, contract, contract amendment, or other agreement.

(b) "Final compensation" means the member's highest average payrate during a period of at least 36 consecutive months immediately preceding his or her retirement, or last separation from service if earlier, or during any other period of at least 36 consecutive months during his or her public retirement system membership that the member designates on the application for retirement.

(c) "Member" means a public employee who is a member of any type of a public retirement system.

(d) "Normal cost" means the portion of the present value of defined benefits that is attributable to the current year of service, as determined by the public retirement system's actuary according to the most recently completed valuation.

(e) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours.

(2) "Payrate" shall include an amount deducted from a member's salary or wages for any of the following:

(A) Participation in a deferred compensation plan.



120615744915811

(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(C) Payments into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(D) Participation in a flexible benefits program.

(3) "Payrate" shall not include any of the following:

(A) Accrued vacation, sick, or other leave of any form.

(B) Severance pay.

(C) Overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code and as set forth in collective bargaining agreement provisions as of the operative date of the act adding this section, and any renewal of those collective bargaining provisions.

(D) The monetary value of any in-kind remuneration.

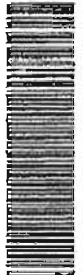
(E) Supplemental payments for items, including, but not limited to, uniform allowances, vehicle allowances, housing allowances, employer contributions to deferred compensation or defined contribution plans, and bonuses.

(f) "Public employee" means an officer, including those elected or appointed, or an employee of a public employer.

(g) "Public employer" means:

(1) The state and every state entity, including, but not limited to, the Legislature, the courts, the California State University, and the University of California.

(2) Any political subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, charter city and county, school



120413764117121

district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, district, or other entity.

(h) "Public retirement system" means any pension or retirement system of a public employer.

(i) "Safety member" means a public employee whose principal duties consist of active law enforcement service and who is authorized to carry firearms under terms and conditions specified by his or her employing agency, or a firefighter whose principal duties consist of active firefighting or fire suppression.

SEC. 11. Section 7514.70 is added to the Government Code, to read:

7514.70. (a) (1) A hybrid pension plan provided by Section 12 of Article VII of the California Constitution shall reduce employer and taxpayer risk and cost.

(2) A hybrid pension plan shall consist of a defined benefit component, a defined contribution component or alternative plan component, and, when applicable, benefits under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.). The hybrid pension plan shall be designed with the goal of providing annually during retirement replacement income of 75 percent of a public employee's final compensation, based on a full career in public service. The hybrid pension plan design shall also target a cap on the combined defined benefit and defined contribution benefit at the amount of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code, or its successor, for those receiving social security benefits or 120 percent of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code, or its successor, for those not receiving social security benefits. As used in this paragraph, "full career in public service" means 30 years of service and a normal retirement age



1206187615017

of 57 for public employees in safety member classifications and 35 years of service and a normal retirement age of 67 for all other public employees.

(b) (1) A public employer shall offer to its public employees first hired on and after July 1, 2013, a hybrid pension plan made available by the public retirement system pursuant to this section, or an alternative pension plan option that is determined and certified by the system's chief actuary and by the system's board to have no greater risk and no greater costs to the employer than any available hybrid plans provided by this section.

(2) An action to obtain a judgment or writ restraining and preventing the implementation or continued implementation of the alternate plan may be maintained against the retirement system actuary, the board of the retirement system, the retirement system, or the employer challenging any of the following: (A) the determination that the alternate plan is of no greater risk and of no greater cost to the employer; (B) the authorization to offer the alternative plan; or (C) the actual offer of the alternate plan to employees. An action may be brought by any resident or corporation that is assessed for and is liable to pay, or within one year before the commencement of the action, has paid a tax within the jurisdiction or geographical boundaries of the public employer. The right to maintain an action described in this paragraph is in addition to and does not limit any other right of action otherwise provided in law.

(3) (A) To the extent that a public retirement system determines that employee contributions to a defined benefit plan, or to a defined benefit portion of a hybrid pension plan, may be considered employer contributions for purposes of federal tax law, on or after July 1, 2013, the public employer shall provide to any public employee



12061676481511

who is a member of the defined benefit pension plan the option to elect to participate prospectively in a hybrid pension plan, and that election shall be irrevocable.

(B) Any election to participate in a hybrid pension plan as authorized by subparagraph (A) shall be on a prospective basis only and shall not affect pension benefits previously earned. A defined benefit pension plan and a defined benefit portion of the hybrid pension plan may, to the extent applicable under the particular plan, take into account in calculating the amount of any previously earned pension benefits pensionable compensation earned after the date the public employee moves between those plans.

(c) The definitions in Section 7514.60 shall apply to this section.

SEC. 12. Section 7514.81 is added to the Government Code, to read:

7514.81. (a) This section applies to public employees first hired on and after the operative date of this section. The limitations contained in this section are in addition to other limitations and shall not provide a public employee any additional benefits or rights beyond those granted to the public employee by other provisions of law.

(b) A defined benefit for retirement shall be calculated by multiplying the member's years of service credit by a percentage of the member's final compensation based on age at retirement.

(c) To be entitled to make an application for service retirement, a member shall first be credited with five years of service and attain 52 years of age for safety member classifications and 57 years of age for all other public employees. If the minimum age requirements for eligibility are increased under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.), the age requirements of this section shall increase by an equal



721851892,313022

number of years for any new employee hired after the operative date of the change in federal law.

(d) The definitions in Section 7514.60 apply to this section.

SEC. 13. Section 20090 of the Government Code is amended to read:

20090. The Board of Administration of the Public Employees' Retirement System is continued in existence. It consists of:

~~(a) One member of the State Personnel Board, selected by and serving at the pleasure of the State Personnel Board.~~

(a) The Director of Finance.

(b) The Director of the Department of Personnel Administration.

(c) The Controller.

(d) The State Treasurer.

(e) An official of a life insurer and Two persons, appointed by the Governor, one of whom has expertise in health insurance and is not interested in a public pension or retirement system, as described in subdivision (i), and one of whom is an elected official of a contracting agency, appointed by the Governor.

~~(f) One person representing the public,~~

(f) Two persons, appointed by, and to serve at the pleasure of, the Governor, who represent the public, have financial expertise, and are not interested in a public pension or retirement system, as described in subdivision (i).

(g) One person representing the public, appointed jointly by the Speaker of the Assembly and the Senate Committee on Rules.

~~(g)~~



71631819791901

(h) Six members elected under the supervision of the board as follows:

(1) Two members elected by the members of this system from the membership thereof.

(2) A member elected by the active state members of this system from the state membership thereof.

(3) A member elected by and from the active local members of this system who are employees of a school district or a county superintendent of schools.

(4) A member elected by and from the active local members of this system other than those who are employees of a school district or a county superintendent of schools.

(5) A member elected by and from the retired members of this system.

(i) For purposes of this section, a person is interested in a public pension or retirement system if the person or any member of the person's immediate family (1) is a member of the system, (2) is eligible to receive or is receiving pension benefits or retirement benefits from the system, (3) is a member of, or affiliated with, any employee organization that represents employees who are eligible to receive or are receiving pension or retirement benefits from the system, or (4) has any material financial interest in an entity that contracts with the system.

SEC. 14. Section 20899.5 of the Government Code is amended to read:

20899.5. ~~(a)~~ An elective officer of a contracting agency that is a city, county, or city and county shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5, 34095, or 50033.

~~(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 20909.~~



7710318792319021

SEC. 15. Section 20909 of the Government Code is amended to read:

20909. (a) A member who has at least five years of credited state service, may elect, by written notice filed with the board, to make contributions pursuant to this section and receive not less than one year, nor more than five years, in one-year increments, of additional retirement service credit in the retirement system.

(b) A member may elect to receive this additional retirement service credit at any time prior to retirement by making the contributions as specified in Sections 21050 and 21052. A member may not elect additional retirement service credit under this section more than once.

(c) For purposes of this section, "additional retirement service credit" means time that does not qualify as public service, military service, leave of absence, or any other time recognized for service credit by the retirement system.

(d) Additional retirement service credit elected pursuant to this section may not be counted to meet the minimum qualifications for service or disability retirement or for health care benefits, or any other benefits based upon years of service credited to the member.

(e) This section only applies to the following members:

(1) A member while he or she is employed in state service at the time of the additional retirement service credit election.

(2) A member of the system defined in Section 20324.

(f) For purposes of this section, "state service" means service as defined in Section 20069.



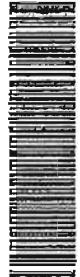
01181892419001

(g) Notwithstanding any other law, no request to purchase nonqualified service credit pursuant to this section may be made after, and no purchase may be made for the requests received after, the operative date of the act that adds this subdivision.

SEC. 16. Section 22871.1 is added to the Government Code, to read:

22871.1. Notwithstanding Section 22871, an employee first hired on or after the operative date of this section, including academic positions with the California State University, and survivors of any of those employees shall have an employer contribution amount in retirement no greater than the last three-year average of the premium formula paid on his or her behalf as an active employee enrolled for self-alone health benefit coverage during the benefit year to which the formula is applied multiplied by the weighted average of the health benefit plan premiums. For each enrolled family member of a retired employee, the employer shall contribute an additional percentage that shall be no greater than the last three year average of the premium formula paid for enrolled family members when the employee was an active member, multiplied by the weighted average of the additional health benefit plan premiums required for enrollment of those family members. These contribution rates shall be adjusted annually for all retired employees. "Weighted average" as used in this section shall consist of the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. Only the enrollment of, and premiums paid by, state employees and annuitants enrolled in a basic health benefit plan shall be counted for purposes of calculating the employer contribution under this section.

SEC. 17. Section 22874.2 is added to the Government Code, to read:



12061675493816

22874.2. (a) Notwithstanding Sections 22870, 22871, 22873, and 22874, a state employee, as defined in subdivision (c) of Section 3513, who is employed by the state for the first time, and who becomes a state member of the system on or after January 1, 2013, may not receive any portion of the employer contribution payable for annuitants unless the person is credited with 15 years of state service at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Credited Years	Years of Service Percentage Contribution of Employer
15	50
16	55
17	60
18	65
19	70
20	75
21	80
22	85
23	90
24	95
25 or more	100

(c) For employees who retire prior to the normal retirement age the percentage of employer contribution shall be reduced by an actuarially equivalent amount for each year between the age at retirement and the applicable normal retirement age.

(d) This section shall apply only to state employees who retire from state service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation. Notwithstanding Section 22826, for purposes of this section, credited state service



1201100301001

includes service to the state for which the employee, pursuant to Section 2081.5 did not receive credit.

(e) This section does not apply to:

(1) State employees previously employed before January 1, 2013, who return to state employment on or after January 1, 2013.

(2) State employees hired prior to January 1, 2013, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees on an approved leave of absence employed before January 1, 2013, who return to active employment on or after January 1, 2013.

(f) Notwithstanding Section 22875, this section shall also apply to a related state employee who is exempted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service who met the requirements of this section when employed by the state for the first time.

(g) If the terms of a contract, including a memorandum of understanding, between a public employer and its public employees, that is in effect on the operative date of this section, would be impaired by any provision of this section or by any statutory provision referenced in this section, that provision shall not apply to the public employer and public employees subject to that contract until the expiration of that contract. A renewal, amendment, or any other extension of that contract shall be subject to the requirements of this section and the statutory provisions referenced in this section.

SEC. 18. Section 31486.35 of the Government Code is amended to read:



31486.35. (a) An active member may elect, by written notice filed with the board before the operative date of the act that adds subdivision (h), to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service retirement or for purposes of establishing eligibility for benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) A member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7. Subject to the limitations of United States Internal Revenue



120618764815811

Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in a county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(h) No member without at least five years of credited service before the operative date of the act that adds this subdivision, or a person first hired on or after that date, shall be permitted to make an election to receive additional retirement credit.

SEC. 19. Section 31658 of the Government Code is amended to read:

31658. (a) An active member may elect, by written notice filed with the board before the operative date of the act that adds subdivision (h), to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service or disability retirement or for purposes of establishing eligibility for any



1206167648138127

benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) Any member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for any additional retirement credit for which he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in any county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(h) No member without at least five years of credited service before the operative date of the act that adds this subdivision, or a person first hired on or after that date, shall be permitted to make an election to receive additional retirement credit.

SEC. 20. The Legislature finds and declares the following:



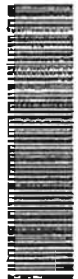
1306167418128126

(a) The security of public moneys is important to all residents of the state, therefore it is necessary for this act to apply to the University of California.

(b) The security of public moneys and the fiscal integrity of local governmental agencies in this state, including charter cities, have a direct impact on the long-term well-being of all residents of this state. Further, local governments that are impacted by unsustainable pension obligations have difficulty providing sufficient public safety services and place additional financial burdens on the state. Accordingly, the Legislature finds and declares that ensuring the statewide integrity and security of local government pension systems and ensuring the sufficiency of local public safety services are matters of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities, including charter cities.

SEC. 22. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 23. If any section of this act is in conflict with a memorandum of understanding that is current and in effect on the date of the enactment of this section, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on the enactment date of this act, this act shall be controlling and may not be superseded by a subsequent memorandum of understanding.



120618994918021